

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JARED BACA, *et al.*,

Plaintiffs,

v.

Civ. No. 18-16 JCH/GBW

QUICK BAIL BOND & TAX SERVICE, *et al.*,

Defendants.

**ORDER GRANTING MOTION TO AMEND COMPLAINT AND DENYING
RELATED MOTIONS AS MOOT**

This matter comes before the Court upon review of the record. On July 24, 2018, Plaintiffs filed an Opposed Motion to Amend Plaintiff's [sic] Complaint. *Doc. 33*. Specifically, Plaintiffs seek to amend their Second Amended Complaint (*doc. 12*) to remove Defendant Billy Wells, who is deceased, and to add the Estate of Billy Wells as Defendant. *Doc. 33* at 1.

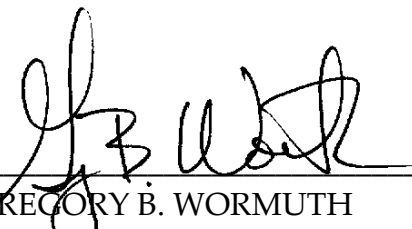
Although Plaintiffs' Motion indicates that counsel for Defendants expressed verbal opposition to the Motion, Defendants failed to timely file a Response by August 7, 2018. *See* D.N.M.LR-Civ. 7.4. Such failure constitutes consent to grant the Motion. D.N.M.LR-Civ. 7.1(b). Accordingly, the Court GRANTS Plaintiffs leave to file their Third Amended Complaint, attached as Exhibit A to their Motion (*doc. 33-1*).

Having granted this motion, the pending motions to dismiss the earlier complaint are moot. *See, e.g., Strich v. United States*, 2010 WL 14826, at *1 (D. Colo. Jan.

11, 2010) (citations omitted) (“The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded.”); *AJB Props., Ltd. v. Zarda Bar-B-Q of Lenexa, LLC*, 2009 WL 1140185, at *1 (D. Kan. Apr. 28, 2009) (finding that amended complaint superseded original complaint and “accordingly, defendant’s motion to dismiss the original complaint is denied as moot”). With the denial of those motions as moot, Plaintiff’s Opposed Motion for Leave of Court to File Rule 56(d) Affidavit of Counsel and Conduct Limited Discovery (*doc. 34*) is also moot.

WHEREFORE, the Opposed Motion to Amend Plaintiff’s Complaint (*doc. 33*) is **GRANTED**. Defendant Thera Jan Wells’ Motion to Dismiss for Lack of Personal Jurisdiction (*doc. 23*) and Defendant Shawn Wells’ Motion to Dismiss for Lack of Personal Jurisdiction (*doc. 25*) are **DENIED AS MOOT**. Plaintiff’s Opposed Motion for Leave of Court to File Rule 56(d) Affidavit of Counsel and Conduct Limited Discovery (*doc. 34*) is **DENIED AS MOOT**.

IT IS SO ORDERED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE